

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 23, 1997

DIVISION ONE

B109592 Cruz (Not for Publication)
v.
Beverly Manor Convalescent Hospital

The judgment is reversed. Plaintiff is to recover her costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B110852 Scanlon (Not for Publication)
v.
City of Hope National Medical Center

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Dunn, J. (Assigned)

B105683 Smith (Not for Publication)
v.
Smith
In re Marriage of Smith

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B105914 Nationwide Mutual Insurance Company (Not for Publication)
v.
Advanced Contractors, Inc.

The judgment is reversed. Defendant's appeal is dismissed. Plaintiff is to recover costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Dunn, J. (Assigned)

B111027 People (Not for Publication)
v.
Waldo

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Dunn, J. (Assigned)

B112756 People (Not for Publication)
v.
Daniel N.

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

December 23, 1997-Continued

DIVISION ONE (Continued)

B108037 People (Not for Publication)
v.
Willis

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B106558 People (Not for Publication)
v.
Davis

The judgment is affirmed.

Spencer, P.J.

We concur: Masterson, J.
Dunn, J. (Assigned)

B111476 People (Not for Publication)
v.
Christopher J.

The judgment is reversed to the extent it declares appellant's offense to be a felony and imposes punishment therefor. In all other respects it is affirmed. The trial court is directed to hold a new dispositional hearing at which it is to consider whether appellant should be sentenced as a felon or as a misdemeanor.

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B100313 People v. Walden (Not for Publication)
B114707 In re Walden on Habeas Corpus

The convictions are affirmed; the sentence is vacated and the matter is remanded with directions to consider whether defendant should receive concurrent or consecutive terms of 25 years to life imprisonment. The petition for a writ of habeas corpus is denied.

Spencer, P.J.

We concur: Ortega, J.
 Vogel (Miriam A.), J.

DIVISION TWO

B111200 People (Not for Publication)
 v.
 Curtis Clayton

The Court:

The judgment of conviction is affirmed. The matter is remanded for resentencing in accordance with the views expressed herein.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

B101799 People (Not for Publication)
 v.
 David A. Roe

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

December 23, 1997-Continued

DIVISION TWO (Continued)

B097353 Baja, Inc. (Not for Publication)
v.
Century Medicorp et al.

The order denying sanctions is affirmed. The judgment is affirmed with respect to the award of damages and interest for the first option period. The remainder of the judgment is reversed, with directions to determine Baja's lost profit damages for the second and third option periods, and to redetermine the damages and consequent interest for the base period with respect to excluded or outpatient sales. Baja shall recover its costs on appeal.

Fukuto, Acting P.J.

We concur: Nott, J.
Zebrowski, J.

B112084 People (Not for Publication)
v.
Carlos Berdin

The judgment revoking appellant's probation and sentencing him to state prison is reversed. Appellant is ordered discharged from custody.

Fukuto, J.

We concur: Boren, P.J.
 Nott, J.

December 23, 1997-Continued

DIVISION THREE

B091351 Herman, et al. (Not for Publication)
v.
San-Val Associates, etc., et al.

The judgment is reversed. On remand, the trial court is ordered to summarily adjudicate the causes of action for fraud and deceit, constructive fraud and negligent misrepresentation. The parties are to bear their own costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Aranda, J. (Assigned)

DIVISION FOUR

B100475 Holme, Inc. (Not for Publication)
v.
Rubin

The judgments are affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B106809 People (Not for Publication)
v.
Brezovizski

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

December 23, 1997-Continued

DIVISION FOUR (Continued)

B109082 People v. Fuentes (Not for Publication)

The judgment is modified to reflect a reduction of the award of good time/work time credit from 128 days to 38 days. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

DIVISION FIVE

B106092 People (Not for Publication)
v.
Anthony Sampson

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

B106873 People (Not for Publication)
v.
Frank Lee

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
Godoy Perez, J.

DIVISION FIVE (Continued)

B101129 William Lowe (Not for Publication)

v.
Rockwell International et al.

Reversed and remanded. Each party to bear own costs.

Armstrong, J.

We concur: Turner, P.J.
 Godoy Perez, J.

B103415 Doheny West Homeowners' Association (Certified for Publication)

v.
American Guarantee & Liability Insurance Co., et al.

The judgment is affirmed. Respondent to recover costs.

Armstrong, J.

We concur: Grignon, Acting P.J.
 Godoy Perez, J.

B107888 People

v.
Carlos Barrera

Filed order denying petition for rehearing.

DIVISION SIX

B110529 People (Not for Publication)

v.
Peters

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

DIVISION SEVEN

B109749 Eriksen (Not for Publication)

v.

Condor Insurance Company

The judgment is affirmed. Respondent to recover her costs on appeal.

Lillie, P.J.

We concur: Johnson, J.

Woods, J.

B105409 People

v.

Sanchez

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment.)

B112091 People (Not for Publication)

v.

Collins

The judgment is affirmed.

Lillie, P.J.

We concur: Woods, J.

Neal, J.

B112127 People (Not for Publication)

v.

McAllister

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.

Woods, J.

December 23, 1997-Continued

DIVISION SEVEN (Continued)

B107577 People (Not for Publication)
v.
Stokes

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

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The judgment (order revoking probation) is affirmed.

Lillie, P.J.

We concur: Woods, J.
Neal, J.

[illegible]

The order striking the prior conviction is vacated and the cause remanded with directions for the court to enter its order striking a prior conviction in conformity with the views stated herein.

Woods, J.

I concur: Johnson, Acting P.J.
I concur and dissent: Neal, J. (Opinion)

DIVISION SEVEN (Continued)

B095356 Waschek
 v.
 Schlesinger

Filed order denying petition for rehearing.